

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK
CIVIL DIVISION**

WILLIAM COLE,

Plaintiff

vs.

COMPLAINT

CAPITAL MANAGEMENT SERVICES, LP,

Index No. _____

Defendant

The Complaint of William Cole by his attorneys, UAW-GM Legal Services Plan,
is as follows:

INTRODUCTION

1. This is an action for statutory damages brought by an individual consumer for violations of the Fair Debt Collection Practices Act, 15 USC 1692 et. seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

JURISDICTION

2. Jurisdiction of this Court arises under 15 USC 1692k(d) and 28 USC 1331.

PARTIES

3. Plaintiff WILLIAM COLE is a natural person currently residing in Buffalo, NY and is a "consumer" within the meaning of the Fair Debt Collection Practices Act.

4. Defendant CAPITAL MANAGEMENT SERVICES, LP ("Defendant") is a New York corporation with its principal place of business located in Buffalo, New York. The Defendant regularly attempts to collect consumer debts asserted to be due another.

FACTS

5. Defendant communicated by letter with Plaintiff in an attempt to collect a consumer debt allegedly due an underlying creditor on or about December 3, 2006. Exhibit A.

6. Plaintiff's attorney notified Defendant in writing that Plaintiff wished the debt collector to cease further communication on or about December 11, 2006. Exhibit B.

7. Despite the notification by Plaintiff's attorney that Plaintiff wished the debt collector to cease communication, Defendant continued to communicate with Plaintiff in an attempt to collect the alleged debt by letter dated January 7, 2007. Exhibit C.

8. Plaintiff's attorney notified Defendant in writing that the debt was disputed and verification was requested on or about December 11, 2006. See Exhibit B

9. Despite the notification by Plaintiff's attorney that the debt was disputed and verification was requested, Defendant continued to communicate with Plaintiff in an attempt to collect the alleged debt before providing the requested verification. See Exhibit C.

10. Defendant also communicated by telephone with Plaintiff in an attempt to collect an alleged consumer debt during the following period: February 18, 2007

11. Defendant was notified on or about December 11, 2006, by Vastye W. Gillespie, Esq. that Plaintiff was represented by an attorney regarding the alleged debt. See Exhibit B.

12. Despite the notification of attorney representation, Defendant communicated directly to the Plaintiff in an attempt to collect the alleged debt. See Exhibit C.

13. The applicable statute of limitations governing actions to collect the alleged debt had passed before Defendant's collection attempts, which included express or implied threats to sue on the debt.

14. As a result of Defendant's actions in violation of collection statutes, Plaintiff suffered emotional distress and mental anguish.

**CAUSE OF ACTION I
FAIR DEBT COLLECTION PRACTICES ACT**

15. Plaintiff realleges and incorporates by reference all of the above paragraphs.

16. In its attempts to collect the alleged debt from Plaintiff, Defendant has committed violations of the Fair Debt Collection Practices Act, 15 USC 1692 et. seq., including, but not limited to, the following:

A. Failing to cease communication as required after notice from the Plaintiff.
15 USC 1692c(c)

B. Failing to cease collection of the debt until verification is provided after notification in writing of a dispute. 15 USC 1692g(b).

C. Communicating with the Plaintiff, knowing the Plaintiff was represented by an attorney. 15 USC 1692c(a)(2).


D. Threatening to take action that cannot be legally taken or is not intended to be taken. 15 USC 1692e(5).

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- A. Statutory damages, costs and reasonable attorney's fees pursuant to 15 USC 1692k;
- B. Such other and further relief as may be just and proper.

Dated April 24, 2007

Respectfully Submitted,


BOOKER T. WASHINGTON
UAW-GM Legal Services Plan
307 Cayuga Road, Suite 150
Cheektowaga, NY 14225
(716) 632-1644

726 Exchange Street, Suite 700
Buffalo, New York 14210

ADDRESS SERVICE REQUESTED



CAPITAL MANAGEMENT SERVICES, LP
726 Exchange Street - Suite 700, Buffalo, NY 14210
Office Hours: M-Th 8 a.m. - 11 p.m. ET
Fri 8 a.m. - 10 p.m., Sat 8 a.m. - 4 p.m. ET
Sun 9 a.m. - 1 p.m. ET
Toll Free: 1-800-395-0460, Fax: (716) 852-1620

#B3WNJTHB *****AUTO**3-DIGIT 140 T13 P1
#0257113464#



William Cole
24 N Parade Av
Buffalo, NY 14211-1209

Previous Creditor: AAA/PNC BANK
Current Creditor: Ad/trust Accounts
Account #: 30267030
Balance: \$1546.97
AMOUNT ENCLOSED: _____

PLEASE DETACH AND RETURN TOP PORTION WITH PAYMENT

December 03, 2006

Dear William Cole:

This company has been engaged by Ad/trust Accounts to resolve your delinquent debt of \$1546.97. Please submit your payment and make your check or money order payable to Capital Management Services, LP. to the above address.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different than the current creditor.

Our representatives are trained to offer assistance regarding this obligation. For payment arrangements or account inquiries, you may contact Capital Management Services, LP. at 726 Exchange Street, Suite 700, Buffalo, NY 14210 or call 1-800-395-0460 Mon. through Thurs. 8 am to 11 pm ET, Fri. 8 am to 10 pm ET, Sat. 8 am to 4 pm ET or Sun. 9 am to 1 pm ET. You may also make payments online at: www.cms-collect.com.

This is an attempt to collect a debt; any information obtained will be used for that purpose. This communication is from a debt collector.

ADDITIONAL INFORMATION FOR NEW YORK CITY RESIDENTS

This collection agency is licensed by the New York City Department of Consumer Affairs, License No. 1242722.

1198586

UAW LEGAL SERVICES PLANS

UAW-GM UAW-Ford UAW-DaimlerChrysler
307 Cayuga Road, Suite 150, Cheektowaga, NY 14225
Phone: (716) 632-1644 Fax: (716) 632-1897

December 11, 2006

Capital Management Services, LP
726 Exchange Street Suite 700
Buffalo, NY 14210

Re: My Client: WILLIAM COLE

Dear Sir or Madam:

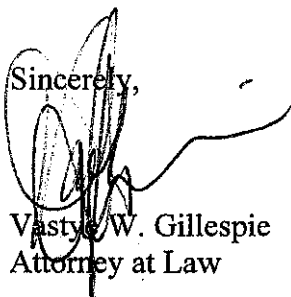
Please be advised that I represent the above-named individual who has recently received a debt collection communication from your company.

Pursuant to the Fair Debt Collection Practices Act, 15 USC Section 1692 et seq., you are hereby directed to:

1. Cease all further communications with my client, and
2. Provide the undersigned with verification of the purported debt, and
3. Provide the undersigned with the name and address of the original creditor, if different from the current creditor.

Until advised otherwise, you should mark this matter as "disputed." I anticipate your cooperation herein.

Sincerely,


Vastyle W. Gillespie
Attorney at Law

cc: William Cole

CERTIFIED MAIL/RETURN RECEIPT REQUESTED

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telephone Return Receipt
return receipt a USP-S&P
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Certified Mail receipt is desired
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receipt and attach label with postma
ery information is not p
70s.

726 Exchange Street, Suite 700
Buffalo, New York 14210

ADDRESS SERVICE REQUESTED



CAPITAL MANAGEMENT SERVICES, LP

726 Exchange Street - Suite 700, Buffalo, NY 14210

Office Hours: M-Th 8 a.m. - 11 p.m. ET
Fri 8 a.m. - 10 p.m., Sat 8 a.m. - 4 p.m. ET
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Toll Free: 1-800-395-0460, Fax: (716) 852-1620

#BWNJTHB *****AUTO**3-DIGIT 140 T7 P1

#0257113464#



William Cole
24 N Parade Av
Buffalo, NY 14211-1209

Previous Creditor: AAA/PNC BANK

Current Creditor: Ad/trust Accounts

Account #: 30267030

Balance: \$1546.97

January 07, 2007

Dear William Cole:

Our records indicate that we have not received a payment on behalf of Ad/trust Accounts since our first notice. We wish to inform you that we are willing to negotiate a repayment arrangement with you. We are authorized to accept payment on this account provided it is received in a timely manner.

Our representatives are trained to offer assistance regarding this obligation. For payment arrangements or account inquiries, please call Capital Management Services, LP. at 1-800-395-0460.

This is an attempt to collect a debt; any information obtained will be used for that purpose. This communication is from a debt collector.

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Defendant.

BOOKER T. WASHINGTON
Attorney for Plaintiff

OFFICE, POST OFFICE ADDRESS AND TELEPHONE
UAW-GM LEGAL SERVICES PLAN
AIRPORT COMMERCE PARK
307 CAYUGA ROAD, SUITE 150
CHEEKTOWAGA, NY 14225-0688
(716)632-1644

TO: PLEASE TAKE NOTICE that an , of which the within is a copy, was duly granted in the
within action on the day of , and duly entered in the office of the Clerk of the County of on the
day of

Yours, etc.,

Attorney for

DUE AND PERSONAL SERVICE of the within paper(s) and of the Notice hereon endorsed is admitted this day of
Attorney(s) for

STATE OF NEW YORK }
COUNTY OF } ss:
OF }

, being duly sworn deposes and says: that deponent is not a party to this action and is over 18
years of age; that on the day of , deponent served the within
upon,

in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing a true copy of same enclosed in a
postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office
department within the State of New York

Sworn to before me, this day of

My Comm. Exp. }

Notary Public, State of New York, Originally qualified in County }